

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

AMERICAN AIRLINES

for an exemption from § 121.313(j)(1)
of Title 14, Code of Federal Regulations

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Regulatory Docket No. FAA-2002-14041

DENIAL OF EXEMPTION

By letters dated December 9, 2002, and January 31, 2003, Mr. R. H. Phillips, Vice President Engineering & Quality Assurance (QA), American Airlines (AAL), Maintenance and Engineering Center, P.O. Box 582809, Tulsa, Oklahoma 74159-2809, petitioned the Federal Aviation Administration (FAA) on behalf of AAL for an exemption from Title 14 of the Code of Federal Regulations § 121.313(j)(1). The proposed exemption would permit AAL to operate 15 Airbus Industries A300-B4-605R (A-300) airplanes after April 9, 2003.

The petitioner requests relief from the following section:

Section 121.313(j)(1) states that after April 9, 2003, no person may conduct any operation unless each airplane required by paragraph (f) of this section to have a door between the passenger and pilot compartments is equipped with a door that meets the requirements of §§ 25.795 (a)(1) and (2) in effect on January 15, 2002.

The petitioner supports its request with the following information:

The petitioner states that AAL operates 34 A-300 airplanes. The petitioner states that Airbus Industries, the A-300 manufacturer has failed to support AAL in completing modifications of the A-300. The petitioner states that there have been repeated delays in receiving required service bulletins and also parts for the A-300 airplanes.

The petitioner states that even with these repeated delays, AAL expects to be able to bring 17 A-300 airplanes into compliance by April 9, 2003. The petitioner states that two A-300 airplanes will be taken out of service.

Thus, the petitioner requests relief for only 15 A-300 airplanes. AAL submits a Retrofit Schedule that demonstrates when each of the A-300 will be brought into compliance. The last A-300 airplane will be brought into compliance by no later than July 9, 2003. Thus, the relief that the petitioner requests is for 15 A-300 airplanes for the time period from April 9, 2003, until July 9, 2003.

The petitioner states that AAL has received less than adequate support from the airplane manufacturer. The petitioner states that Airbus has consistently demonstrated their inability to deliver engineering support and required kits. The petitioner states that Airbus has failed to deliver critical Service Bulletins required to accomplish the required door installations. As of December 9, 2002, only two of the required four service bulletins have been received from Airbus. The petitioner states that Airbus has consistently slipped their original scheduled delivery dates and informed AAL prior to December 9, 2002, that the remaining service bulletins will be delayed as late as January 20, 2003, with some parts to ship in the first week of February, 2003.

The petitioner states that without advance warning on January 29, 2003, Airbus advised AAL that the "Escape Hatch" Service Bulletin 25-6176 parts delivery will slip an additional week on top of the current delay. The petitioner states that, moreover, it was also advised that the delivery of two Service Bulletin 25-6175 modification kits scheduled for delivery between February 2, and February 8, 2003, will not ship until the week of February 9, and February 15, 2003. AAL states that continual protests and requests for proactive communications, AAL continues to have difficulty with Airbus maintaining commitments on-schedule.

The petitioner states that AAL plans to modify as many as three A-300 airplanes simultaneously at the AAL Tulsa maintenance base, as soon as Airbus kit deliveries permit. The petitioner states that original data indicated that complete modification would require 8 days to complete. After careful evaluation, during the first A-300 prototype, AAL has determined that installation actually would require 15 days.

The petitioner states that the proposed exemption will maintain a level of safety that is equivalent to Phase I of the Special Federal Aviation Regulation (SFAR) compliance (Installation of the Katy bars), because it is limited in applicability, scope, and duration such that it would not impair the overall level of safety. The exemption would only apply to a limited number of A-300 airplanes.

The petitioner states that the proposed exemption would be in the public interest, because AAL will continue to operate the A-300 fleet during the completion of the modifications. The petitioner states that denial of the proposed exemption will have detrimental effects on AAL due to the fact that AAL will have to take additional A-300 airplanes out of service thus incurring severe

revenue loss. The petitioner states that more importantly denial of the proposed exemption will have a severe impact on the thousands of customers who have already booked passage on future scheduled flights. The petitioner states that if the proposed exemption is not granted, AAL will need to accommodate its advance schedule to put AAL aircraft out of service and cancel the numerous flights that have already been booked.

The FAA has determined that good cause exists for waiving the requirement for Federal Register publication because any delay in acting on this petition would be detrimental to AAL.

The FAA's analysis/summary is as follows:

The FAA has fully considered the petitioner's supporting information and finds that a grant of exemption is not in the public interest and could adversely affect safety. On September 11, 2001, the United States experienced terrorist attacks when airplanes were commandeered and used as weapons. These actions demonstrated the need to improve the security of the flightdeck. On November 19, 2001, the U.S. Congress enacted Public Law No. 107-71, the Aviation and Transportation Security Act (the Act).

Section 104(a)(1)(B) of the Act, Improved Flightdeck Integrity Measures, directs that as soon as possible after the date of enactment of the Act, the Administrator must issue an order, without regard to the provisions of chapter 5 of Title 5, United States Code (5 U.S.C.), requiring the strengthening of the flightdeck door and locks on any such aircraft operating in air transportation or interstate air transportation that has a rigid door in the bulkhead between the flightdeck and passenger area to ensure that the door cannot be forced open from the passenger compartment. As required by the Act, on January 15, 2002, the FAA issued Amendment No. 121-288. This amendment revised § 121.313 to impose new flightdeck door requirements on existing airplanes that are required to have such doors.

In Amendment No. 121-288, the FAA considered and evaluated the benefits and costs associated with the new requirements. The FAA stated that because this rule is one of several being introduced to avoid a reoccurrence of an event like those of September 11, 2001, the benefits will be shared by the entire set of rules designed to prevent such a reoccurrence.

The cost of the September 11, 2001, catastrophic acts cannot be measured only in dollars. While those losses are estimated potentially to be in the tens of billions of dollars, the costs of another incident could possibly be even higher. On the basis of changes in the aviation security risk and the Act, the FAA believes that the benefit of this regulation is warranted to prevent flightdeck access by unauthorized persons.

The FAA finds that April 9, 2003, is a firm date. This date has been known for a year and one-half, and security considerations overshadow the burden on individual operators who have reasons to request an exemption.

In evaluating this petition for an exemption, the FAA has fully considered the difficulties and delays that have hindered the petitioner from bringing its airplanes into compliance with the affected section. The FAA is aware that these delays could be beyond the control of the petitioner. However, the FAA finds that these problems are not the basis upon which to grant an exemption; safety and security requires that these improvements must be installed in each airplane.

Thus, after fully considering all of the petitioner's supporting information, and the reasons that necessitate the requirements set forth in the affected section, the FAA finds that the petitioner has failed to show how its proposed exemption would be in the public interest.

The FAA also finds that the petitioner has also failed to show how its proposed exemption would provide a level of safety equal to that provided by the rule from which the exemption is sought. The SFAR provisions have provided short-term improvements to flight deck door security, but the § 25.795(a) requirements are far superior to SFAR enhancements, plus the designs often incorporate significant airworthiness improvements. An airplane operated in non-compliance with the affected sections, is not as safe as an airplane that is operated in compliance with the affected sections.

In consideration of the foregoing, I find that a grant of exemption would not be in the public interest. Therefore, in accordance with the authority contained in 49 U.S.C. §§ 40113 and 44701 delegated to me by the Administrator, the petition of American Airlines for an exemption from § 121.313(j)(1) to the extent necessary to operate 15 Airbus Industries A300-B4-605R (A-300) airplanes after April 9, 2003 is hereby denied.

Please note that in an effort to allow the public to participate in tracking the FAA's rulemaking activities, we have transitioned to the Department of Transportation's online Docket Management System (DMS) at <http://dms.dot.gov>. This new docket system enables interested persons to submit requests to, view requests on, and download requests from the DMS to comply with 14 CFR § 11.63. Please submit future requests through the DMS.

Issued in Washington, DC, on February 7, 2003.

/s/

Louis C. Cusimano
Acting Director, Flight Standards Service